BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop Additional Methods to Implement the California Renewables Portfolio Standard Program.	R. 06-02-012 (Filed February 16, 2006)

REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E) ON MARCH 26, 2009 PROPOSED DECISION REGARDING TRADABLE RENEWABLE ENERGY CREDITS

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April 20, 2009

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In general, most of the parties filing comments on the March 26, 2009 Proposed Decision issued by Administrative Law Judge Simon ("PD") support tradable Renewable Energy Credits ("RECs") and many of the aspects of the RECs program proposed in the PD. Most of these parties also agreed with the arguments made by PG&E in its opening comments that there should not be a limitation of the amount of RECs that can used to satisfy the requirements of the Renewable Portfolio Standard ("RPS"), that the Commission should not adopt standards that differ from the California Energy Commission's ("CEC") definitions of qualifying renewable transactions, and some of the proposed standard terms and conditions need to be modified. However, three parties filed comments that supported the PD's limitations on RECs or proposed even greater limitations on the use of RECs to meet RPS requirements. In these reply comments, PG&E responds to limitations supported or proposed by the Aglet Consumer Alliance ("Aglet"), The Utility Reform Network ("TURN") and the Large-Scale Solar Association ("LSA").

I. THE 5% LIMITATION PROPOSED IN THE PD SHOULD NOT BE ADOPTED.

LSA, Aglet and TURN all support the limitation proposed in the PD that would limit RECs used for RPS compliance by the utilities to 5% of a utility's APT.[1] LSA argues, for example, that the 5% limitation supports various policy goals, such as encouraging new resource development.

[1] LSA at 3-6; Aglet at 1-2; TURN at 3-4.

However, as even the PD acknowledges, the development of a robust RECs market "will provide additional flexibility and incentives for the development of RPS-eligible generation by supplying useful revenue options for generation developers."[2] Limiting the utilities' ability to procure RECs for compliance will necessarily limit the RECs market, making it substantially less robust. By eliminating the 5% limitation, the RECs market can develop more quickly, giving generators more options and flexibility and, ultimately, encouraging the development of new resources.

Aglet argues that bills pending in the Legislature may restrict the use of RECs. However, none of the bills cited by Aglet have been enacted, and most of them have limitations higher than 5%.[3] The Commission should not limit RECs based on several pending bills, which may never be enacted or may be amended.

TURN supports the 5% limitation, but argues it should be extended to all load serving entities ("LSEs"). As PG&E explained in its initial comments, although it is opposed to the 5% limitation, if the Commission adopts any REC limitation, PG&E agrees with TURN that it should apply to all LSEs.[4]

II. THE PRICE CAP IN THE PD SHOULD NOT BE LOWERED.

The PD establishes a temporary $50/REC price cap for the utilities, rejecting proposals by TURN and Aglet for a lower price cap.[5] In its comments, Aglet asserts that the price cap is substantially above current market prices and suggests that if the Commission wants to set the price cap at the level of the current non-compliance penalty, it should simply lower the non-compliance penalty rather than adopting a $50/REC price cap.[6] Aglet's proposal is beyond the

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[2] PD at 2.

[3] Aglet at 2.

[4] PG&E at 4-6.

[5] PD at 38-42.

[6] Aglet at 3-4.

scope of the PD or the issues raised in this phase of the proceeding. The Commission has not indicated that it is re-examining the level of the non-compliance penalty, and should not do so in response to Aglet's comments. Instead, as the PD explains, it is reasonable to tie the REC price cap to the non-compliance penalty, and given the current level of the non-compliance penalty, a $50/REC price cap is appropriate. Moreover, Aglet's concern about the $50/REC price cap exceeding market prices is misplaced. If market prices for RECs are low, the price cap will not factor as the utilities will be able to purchase RECs below the cap. If market prices are high, the utilities will be limited in the amount of RECs they can purchase. Current RECs prices do not justify lowering the cap, especially because doing so will only further limit the RECs market by reducing the utilities' ability to purchase RECs.

TURN re-asserts its position that the price cap should be $35/REC.[7] However, TURN provides no basis for setting the price cap at $35, as compared to any other amount. The PD explains that the $50/REC price cap is "connected to the noncompliance penalty amount" and thus there is some basis for the price cap amount.[8] Since TURN fails to offer any reasoned basis for the $35/REC price cap, its proposal should be rejected.

III. THE REQUIREMENTS FOR BUNDLED TRANSACTIONS PROPOSED BY TURN SHOULD BE REJECTED.

TURN proposes additional requirements to qualify a transaction as a bundled RPS transaction, rather than a RECs-only transaction.[9] In particular, TURN suggests that the term of an energy import transaction meet the term of a renewable purchase and that the generation unit supplying imported energy be located in the same control area as a renewable purchase. TURN's arguments miss the point. First, as PG&E explained in its initial comments, the purchase of

[7] TURN at 6-7.

[8] PD at 42.

[9] TURN at 5-6.

renewable energy should be considered a bundled transaction, even if the utility later sells off the actual kilowatts associated with the transaction.[10] The additional requirements proposed by TURN should not be applied to renewable energy purchases, even if the utility subsequently sells off the associated power. Second, TURN's proposals would impose requirements that have not been adopted by the CEC, which has the statutory responsibility to determine the eligibility requirements for RPS compliance.[11] The Commission should not overstep its jurisdiction by adopting TURN's proposals. Third, TURN's suggestions will only further limit the ability of the utilities to enter into various types of transactions, all of which have the ultimate goal of satisfying California's RPS requirements. Given the challenges faced by all LSEs in California to meet the RPS goals, the Commission should not unnecessarily limit qualifying RPS transactions by adopting artificial limitations, such as those proposed by TURN.

IV. THE DATE FOR ELIGIBLE RECS ADOPTED IN THE PD SHOULD NOT BE MODIFIED.

The PD allows LSEs for compliance purposes to use tradable RECs that were created on or after January 1, 2008.[12] TURN suggests that this date be changed to January 1, 2009.[13] TURN's proposal will only further limit the RECs market. TURN does not dispute the PD's conclusion that there are a limited number of RECs available.[14] Limiting the time period of available RECs to January 1, 2009 will only further limit the pool of available RECs and delay the development of a robust RECs market. This is contrary to the PD's conclusion that a robust and functioning RECs market is advantageous to California and will ultimately spur renewable energy development.[15]

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[10] PG&E at 2-3.

[11] PD at 48.

[12] PD at 69, Ordering Paragraph 5.

[13] TURN at 7.

[14] PD at 20.

[15] PD at 14.

V. CONCLUSION

For the foregoing reasons, PG&E respectfully requests that the Commission reject the arguments of LSA, TURN and Aglet, and adopted the PD with the modification proposed by PG&E in its initial comments.

Respectfully submitted,

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Dated: April 20, 2009

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 20th day of April 2009, I caused to be served a true copy of:

REPLY COMMENTS OF
PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ON MARCH 26, 2009 PROPOSED DECISION
REGARDING TRADABLE RENEWABLE ENERGY CREDITS

[XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for R.06-02-012 with an e-mail address.

[XX] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for R.06-02-012 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of April, 2009 at San Francisco, California.

/s/
STEPHANIE LOUIE